

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
UNITED STATES OF AMERICA, : 24-cr-00270-LDH-JRC
: :
: :
- versus - : U.S. Courthouse
JONTAY PORTER, : Brooklyn, New York
: :
Defendant : July 10, 2024
: 1:34 p.m.
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT
AND PLEADING
BEFORE THE HONORABLE JAMES R. CHO
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

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Proceedings

1 THE DEPUTY: Criminal Cause for an Arraignment
2 and Plea Hearing, case number 24-cr-270, United States v.
3 Jontay Porter.

4 Counsel, please state your name for the record
5 beginning with the government, then defendant, then
6 Pretrial Services.

7 MR. WEINTRAUB: Good afternoon, your Honor.
8 Benjamin Weintraub, Kaitlin Farrell, and David Berman for
9 the United States.

10 MR. JENSEN: Good afternoon, your Honor. Jeff
11 Jensen and Ryan Olson on behalf of Jontay Porter.

12 THE COURT: All right. Good afternoon,
13 everyone. Please be seated. Remain seated during
14 today's conference. All right?

15 THE CLERK: Pretrial Services?

16 THE COURT: Sure. Pretrial Services?

17 PRETRIAL OFFICER: Good afternoon, your Honor.
18 Meghan Baio, Pretrial Services.

19 THE COURT: All right. Good afternoon,
20 everyone. Thanks for being patient.

21 Just to confirm, are you Mr. Porter?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: All right. I'm Judge Cho. How are
24 you doing?

25 THE DEFENDANT: I'm doing good. How are you?

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1 THE COURT: Fine. All right. Now, Mr. Porter,
2 if at any point in time during these proceedings you
3 don't understand fully what's going on or you need me to
4 explain anything further, please let me know. Okay?

5 THE DEFENDANT: Yes, Judge.

6 THE COURT: And if at any point in time you
7 want to take a break or speak with your lawyer, just let
8 me know and we'll take that break for you. Okay?

9 THE DEFENDANT: Okay.

10 THE COURT: Now, it is my understanding that we
11 are here today for the defendant to waive indictment and
12 enter a guilty plea. Mr. Porter, I'm advised by your
13 attorney that that is your intention here today. Is that
14 correct?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: All right. Now, this is a very
17 serious decision and I have to make sure that you
18 understand all of your rights and the consequences of any
19 waiver of indictment and guilty plea as well. I will
20 have to ask you some questions and I'll require that your
21 answers be made under oath. So at this time my courtroom
22 deputy will swear you in. Okay?

23 THE DEPUTY: Please stand and raise your right
24 hand.

25 J O N T A Y P O R T E R,

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1 called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 THE COURT: Mr. Porter, do you understand that
4 having been sworn your answers to my questions will be
5 subject to the penalties of perjury or of making a false
6 statement if you do not answer truthfully. Do you
7 understand that?

8 THE DEFENDANT: Yes, Judge.

9 THE COURT: That means that if you answer
10 falsely to any of my questions, the government may
11 prosecute you for perjury or making a false statement and
12 may use any of your false statements today during that
13 prosecution. Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Now, Mr. Porter, I first want you
16 to understand that this is Judge DeArcy Hall's case. She
17 is the judge who will sentence you and make the ultimate
18 decision as to whether to accept your guilty plea or not.

19 If you wish, you have the absolute right to
20 plead guilty before Judge DeArcy Hall and there'll be no
21 prejudice to you at all. Or if you wish, I will listen
22 to your plea. A transcript will be made by a court
23 reporter and Judge DeArcy Hall will review the transcript
24 in connection with your sentence. Do you understand all
25 that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you wish to give up your right
3 to have Judge DeArcy Hall hear your plea and instead
4 proceed before me today?

5 THE DEFENDANT: Yes.

6 THE COURT: I have before me a document
7 entitled Consent to Have a Plea Taken Before a United
8 States Magistrate Judge, Judge Cho. It has today's date
9 on it, July 10, 2024. I'm going to hand it down and ask
10 you to confirm the signatures on here. Starting with
11 you, Mr. Jensen, is that your signature on the form?

12 MR. JENSEN: Yes, your Honor.

13 THE COURT: All right. And Mr. Porter, is that
14 your signature as well?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Let me turn to the
17 government. Mr. Weintraub, you signed the form as well,
18 correct?

19 MR. WEINTRAUB: Yes, your Honor.

20 THE COURT: All right. Whoever has their cell
21 phone, can you turn off? All right, thank you.

22 All right. Now, Mr. Porter, before signing
23 this consent form, did you have the chance to discuss
24 this consent form with your lawyer?

25 THE DEFENDANT: Yes.

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1 THE COURT: All right. And have you made a
2 decision to proceed before me today?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Now, did you make this
5 decision voluntarily and of your own free will?

6 THE DEFENDANT: I do.

7 THE COURT: All right. Has anyone threatened
8 you or have any promises been made to you to induce you
9 to plead before me?

10 THE DEFENDANT: No.

11 THE COURT: All right. At this time, Emma, why
12 don't you grab the form? At this time I find that the
13 defendant is aware of his right to proceed before the
14 District Court Judge and is knowingly and willingly
15 consenting to have the plea taken before me today.
16 Having confirm the signatures, I will go ahead and
17 endorse the form.

18 Now, Mr. Porter, before accepting your plea,
19 there are a number of questions I must ask you to assure
20 myself that this plea is valid. If you do not understand
21 any of my questions, please say so, and I'll rephrase the
22 question. Okay?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: What is your full name?

25 THE DEFENDANT: Jontay Porter.

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1 THE COURT: And how old are you?

2 THE DEFENDANT: 24.

3 THE COURT: What schooling or education have
4 you had?

5 THE DEFENDANT: I am currently enrolled in
6 college classes, so I guess I graduated high school.

7 THE COURT: All right. And you are able to
8 speak and understand English, correct?

9 THE DEFENDANT: I can, yeah.

10 THE COURT: Are you under the care of a doctor
11 or a psychiatrist for any reason?

12 THE DEFENDANT: No.

13 THE COURT: All right.

14 THE DEFENDANT: I'm sorry, I'm under the care
15 of a therapist. I'm not sure if that's a psychiatrist.

16 THE COURT: Okay. Is that for counseling?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Are the reasons for
19 your counseling in any way impairing your ability to
20 understand what's going on here today?

21 THE DEFENDANT: No, Judge.

22 THE COURT: Okay. Now, in the past 24 hours,
23 have you taken any drugs, medicine, or pills, or drunk
24 any alcoholic beverages?

25 THE DEFENDANT: No.

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1 THE COURT: All right. Have you ever been
2 hospitalized or treated for any drug addiction,
3 alcoholism, or mental or emotional problems?

4 THE DEFENDANT: No.

5 THE COURT: All right. As you sit here --

6 MR. JENSEN: Your Honor?

7 THE COURT: Yes, go ahead.

8 MR. JENSEN: If you don't mind if I interject?
9 Could we back up a little bit --

10 THE COURT: Sure.

11 MR. JENSEN: -- just for clarification sake?

12 THE DEFENDANT: I'm sorry. I haven't been
13 hospitalized but I have been to -- I've been an inpatient
14 at a rehab facility for gambling.

15 THE COURT: Okay. Are you still going to that
16 rehab at this time?

17 THE DEFENDANT: Aftercare. That's the
18 therapist.

19 THE COURT: Okay. All right. Have you been
20 hospitalized for any other reason?

21 THE DEFENDANT: No. No mental stuff.

22 THE COURT: Okay. As you sit here today, is
23 your mind clear?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: All right. Do you understand

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1 what's going on here today?

2 THE DEFENDANT: I do.

3 THE COURT: All right. Do you understand
4 everything I've asked you so far?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: All right. Now, Mr. Porter, as a
7 defendant in a criminal case, you have a number of
8 rights. I'd like to go over first your right to counsel.
9 As a defendant in a criminal case, you have the right to
10 be represented by an attorney at any stage of your
11 criminal case from when you are arrested through trial
12 and appeal. If you cannot afford an attorney, the Court
13 will appoint an attorney to represent you. Do you
14 understand your right to counsel?

15 THE DEFENDANT: Yes.

16 THE COURT: Is Mr. Jensen, who's seated next to
17 you, is he your lawyer?

18 THE DEFENDANT: He is.

19 THE COURT: All right. If at any time you wish
20 to consult with him regarding anything, please let us
21 know and I'll permit you to do so. Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Have you had any difficulty
24 communicating with your lawyer?

25 THE DEFENDANT: No.

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1 THE COURT: Have you had enough time to discuss
2 with your lawyer your decision to enter a plea of guilty
3 in this case?

4 THE DEFENDANT: I have.

5 THE COURT: All right. Are you fully satisfied
6 with the representation and advice your attorney has
7 provided to you so far?

8 THE DEFENDANT: Yes, I am.

9 THE COURT: Now, turning to Mr. Jensen. Have
10 you discussed this matter fully with your client?

11 MR. JENSEN: Yes, your Honor.

12 THE COURT: And have you had any difficulty in
13 communicating with your client as well?

14 MR. JENSEN: No, your Honor.

15 THE COURT: Or I'm sorry, with the defendant.

16 MR. JENSEN: No, your Honor.

17 THE COURT: All right. Are you satisfied that
18 he understands the rights he's waiving by pleading guilty
19 today?

20 MR. JENSEN: Yes, Judge.

21 THE COURT: In your judgment, is he capable of
22 understanding the nature of these proceedings?

23 MR. JENSEN: Yes, your Honor.

24 THE COURT: Do you have any doubt at all about
25 his competence to plead at this time?

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1 MR. JENSEN: None whatsoever.

2 THE COURT: Have you advised him of the
3 sentencing scheme including the maximum sentence and fine
4 that could be imposed on him in this case?

5 MR. JENSEN: I have, Judge.

6 THE COURT: Have you discussed with him the
7 operation of the sentencing guidelines and how those
8 guidelines could affect his case?

9 MR. JENSEN: Yes, your Honor.

10 THE COURT: Now, Mr. Porter, turning back to
11 you. In addition to your anticipated plea, it is my
12 understanding that you intend to waive indictment here.
13 I have before me a proposed information. Mr. Porter, do
14 you have a copy of the information as well? Or maybe
15 your lawyer can give you a copy.

16 THE DEFENDANT: Yeah, my lawyer does. Yes,
17 sir. Yes, your Honor.

18 THE COURT: Do you have a copy of the
19 information?

20 THE DEFENDANT: I do.

21 THE COURT: All right. So Mr. Porter, the
22 information charges you in a one-count information with
23 wire fraud conspiracy. In a nutshell, it alleges that in
24 or about and between January 2024 and March 2024 within
25 the Eastern District of New York and elsewhere, you the

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1 defendant together with others did knowingly and
2 intentionally conspire to devise a scheme and artifice to
3 defraud sports betting companies one and two, entities
4 and identities which are known to the U.S. Attorney's
5 Office, and to obtain money and property from sports
6 betting companies one and two by means of one or more
7 materially false and fraudulent pretenses,
8 representations, and promises, and for the purpose of
9 executing such scheme and artifice, to transmit and cause
10 to be transmitted by means of wire communication in
11 interstate and foreign commerce writings, signs, signals,
12 pictures, and sounds contrary to Title 18 USC Section
13 1343. The information also contains the forfeiture
14 allegation as well.

15 Now, this information charges you with a very
16 serious felony. The government normally can't come into
17 court and simply file a charge like this unless you agree
18 to it. Under the United States Constitution, you have a
19 right to have the evidence presented to a grand jury of
20 at least 16 and not more than 23 persons and have that
21 grand jury determine whether or not there was probable
22 cause to believe you committed the crime alleged in this
23 information.

24 To get an indictment, the government would have
25 to persuade a majority of the members of the grand jury

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1 that there was probable cause to believe that you
2 committed the offense contained in the proposed
3 information. If the grand jury found probable cause,
4 they could return what is called an indictment against
5 you. If they do not find probable cause, no charges
6 would be brought against you.

7 So when you waive indictment, you give up the
8 right to have the grand jury make that determination and
9 you're basically agreeing that it is okay with you for
10 the government to come to court and file the charge
11 directly.

12 Mr. Porter, have you discussed with your lawyer
13 the matter of waiving your right to indictment by a grand
14 jury?

15 THE DEFENDANT: I have.

16 THE COURT: All right. Do you understand what
17 this right means, this right to have the government
18 present evidence to a neutral body of people and have
19 them make a probable cause determination? Do you
20 understand that right?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: Turning to you, Mr. Jensen, are you
23 satisfied that your client understands what it means to
24 waive indictment?

25 MR. JENSEN: Yes, your Honor.

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1 THE COURT: Do you see any reason why the
2 defendant should not waive indictment?

3 MR. JENSEN: No, your Honor.

4 THE COURT: All right. Turning back to Mr.
5 Porter. I have before me a form entitled Waiver of an
6 Indictment. The form states, "I understand that I have
7 been accused of one or more offenses punishable by
8 imprisonment for more than one year. I was advised in
9 open court of my rights and the nature of the proposed
10 charges against me. After receiving this advice, I waive
11 my right to prosecution by indictment. I consent to
12 prosecution by information."

13 All right. I'm going to hand this form to my
14 clerk. I just want you to confirm your signature is on
15 this form. All right. Mr. Porter, is that your
16 signature on the waiver form?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Mr. Jensen, your signature as well?

19 MR. JENSEN: Yes, your Honor.

20 THE COURT: All right. You can give the form
21 back to my clerk.

22 Now Mr. Jensen, did you witness your client
23 signing this form?

24 MR. JENSEN: I did, Judge.

25 THE COURT: All right. Mr. Porter, before

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1 signing this form, did you have a chance to discuss it
2 with your lawyer?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. And are you making the
5 decision to waive your right to be indicted by a grand
6 jury voluntarily?

7 THE DEFENDANT: Yes, Judge.

8 THE COURT: Has anyone forced or threatened you
9 to waive your right to be indicted by a grand jury?

10 THE DEFENDANT: No.

11 THE COURT: Do you in fact wish to waive your
12 right to be indicted by a grand jury?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Having fully gone over
15 the defendant's rights to be indicted by a grand jury,
16 I'm finding that the defendant's waiver is knowing and
17 voluntary. I'll accept the waiver and I will endorse it
18 at this time.

19 Now Mr. Porter, I have summarized the charge
20 against you contained in the proposed information a
21 moment ago. Let me ask you this. Have you had an
22 opportunity to carefully read the information that the
23 government is going to file against you?

24 THE DEFENDANT: Yes, I have.

25 THE COURT: All right. And do you believe you

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1 understand the charge against you?

2 THE DEFENDANT: Yes.

3 THE COURT: Have you had a conversation with
4 your lawyer where he went over with you what the
5 government would have to prove beyond a reasonable doubt
6 in order to prove the charge if this case went to trial?
7 Have you had that conversation?

8 THE DEFENDANT: Yes, Judge.

9 THE COURT: In order for the government to
10 convict you of that offense, it would have to prove
11 several elements beyond a reasonable doubt. At this time
12 I'm going to summarize those elements and when I'm done
13 I'm going to ask the government and your lawyer whether I
14 have accurately summarized the elements of the charge
15 against you.

16 Now, the charge contained within the
17 information alleges wire fraud conspiracy. The elements
18 of that crime include the following.

19 First, two or more people formed an unlawful
20 agreement to commit the crime of wire fraud.

21 And second, you, the defendant, knowingly and
22 intentionally joined that conspiracy.

23 The underlying agreement, the agreement to
24 commit the wire fraud, would entail the elements of wire
25 fraud which are as follows.

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1 First, there was a scheme or artifice to
2 defraud or to obtain money or property by materially
3 false and fraudulent pretenses, representations, or
4 promises.

5 Second, you, the defendant, knowingly and
6 willfully participated in the scheme or artifice to
7 defraud with knowledge of its fraudulent nature and with
8 specific intent to defraud.

9 And third, in the execution of that scheme,
10 you, the defendant, used or caused the use of interstate
11 wires.

12 Now, Mr. Porter, you are not being charged with
13 wire fraud directly. You are instead being charged with
14 an agreement to commit that wire fraud. Do you
15 understand the nature of what the government would have
16 to prove if this case were to go to trial?

17 THE DEFENDANT: Yes, Judge.

18 THE COURT: All right. Let me turn to Mr.
19 Weintraub. Have I accurately summarized the charge and
20 the elements?

21 MR. WEINTRAUB: Yes, your Honor.

22 THE COURT: All right. And do you think
23 there's anything else I should advise the defendant with
24 regard to the essential elements of the crime to which
25 he's pleading guilty?

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1 MR. WEINTRAUB: No.

2 THE COURT: All right. Mr. Jensen, do you
3 agree?

4 MR. JENSEN: Yes.

5 THE COURT: All right. What I want to do now,
6 Mr. Porter, is to go over with you the rights that you
7 have and the rights that you'll be giving up if you plead
8 guilty today.

9 First of all, you have the right to plead not
10 guilty. Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: What this means is that even if you
13 are guilty, you have a choice. It is up to you to decide
14 what to do, not your lawyer or anyone else. You may
15 plead not guilty and persist in that plea of not guilty.
16 Let me rephrase that. You may plead not guilty and
17 persist in that plea or plead guilty, as you apparently
18 wish to do. If you were to persist in your plea of not
19 guilty, you may choose to go to trial. Do you understand
20 that you have a choice here?

21 THE DEFENDANT: Yes.

22 THE COURT: If you plead not guilty to the
23 charge, you would have the right under the constitution
24 and the laws of the United States to a speedy and public
25 trial before a jury with the assistance of your lawyer on

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1 the charge contained in the information. Do you
2 understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: At any trial, you'd be presumed
5 innocent. You would not have to prove that you were
6 innocent. Under our legal system, it is the government
7 that has the burden to prove beyond a reasonable doubt
8 that you're guilty of the crime charged. If at any trial
9 the government would fail to meet that burden of proof,
10 the jury would have to find you not guilty. Do you
11 understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: That is why sometimes juries return
14 verdicts of not guilty even though the jurors believe
15 that the defendant on trial probably committed the crime
16 charged. When a jury returns a not guilty verdict, the
17 jurors are not saying they believe the defendant's
18 innocent, they are merely saying they're not convinced
19 beyond a reasonable doubt that the defendant is guilty.
20 Do you understand that difference?

21 THE DEFENDANT: Yes, Judge.

22 THE COURT: Now, in the course of the trial,
23 witnesses for the government would have to come into
24 court and testify in your presence. Your lawyer would
25 have the right to cross-examine each witness, to object

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1 to the evidence offered by the government, and could
2 offer evidence on your behalf. Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Your lawyer would also have the
5 right to subpoena or compel witnesses to come to court to
6 testify. Do you understand?

7 THE DEFENDANT: Yes.

8 THE COURT: At trial, you would have the right
9 to testify on your behalf if you wanted to. On the other
10 hand, you could not be forced to testify if you did not
11 want to. Under the Constitution and the laws of the
12 United States, no person can be forced to be a witness
13 against himself. And if you had a trial and did not
14 testify, Judge DeArcy Hall would instruct the jury that
15 they could not hold that against you. Do you understand
16 that?

17 THE DEFENDANT: Yes.

18 THE COURT: If instead of going to trial you
19 plead guilty to the crime charged in the information and
20 if Judge DeArcy Hall accepts your guilty plea, you'll be
21 giving up your constitutional right to a trial and all
22 the other rights I've just discussed. There will be no
23 trial in this case. The Court will simply enter a
24 judgment of guilty based on your plea. Do you
25 understand?

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1 THE DEFENDANT: Yes, Judge.

2 THE COURT: If you do plead guilty, I will have
3 to ask you questions about what you did in order to
4 satisfy myself and Judge DeArcy Hall that you are guilty
5 of the crime charged. You're going to have to answer my
6 questions and acknowledge your guilt. This means that
7 you'll be giving up your right not to testify against
8 yourself. Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Also, if you enter a plea of guilty
11 today, and you admit the criminal conduct alleged in the
12 information and Judge DeArcy Hall accepts your plea, you
13 cannot appeal to a higher court on whether you committed
14 the crime or not. That determination would be over as a
15 result of your guilty plea. Do you understand?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Porter, are you willing to give
18 up your right to a trial and all the other rights I've
19 just discussed?

20 THE DEFENDANT: Yes.

21 THE COURT: I have before me a written
22 agreement between yourself and the government that's
23 dated today, July 10, 2024. I'm going to ask my clerk to
24 pass it back to you. What I want to do is confirm the
25 signatures on the agreement. Mr. Porter, if you can turn

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1 to the last page. Is that your signature on the
2 agreement?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: All right. And Mr. Jensen, did you
5 sign as well?

6 MR. JENSEN: Yes, Judge.

7 THE COURT: All right. Mr. Weintraub, you also
8 signed the agreement, correct?

9 MR. WEINTRAUB: Yes, your Honor.

10 THE COURT: All right. Why don't you hand the
11 agreement back to me? Mr. Porter, do you have a copy of
12 the agreement?

13 THE DEFENDANT: Yes.

14 THE COURT: Now, before you signed the
15 agreement, did you read the agreement carefully?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. And did you discuss the
18 agreement with your lawyer?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you believe you understand the
21 agreement?

22 THE DEFENDANT: Yes.

23 THE COURT: Let me turn to the government. Mr.
24 Weintraub, does the government represent that the
25 agreement before the Court contains the entirety of any

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1 understanding between the United States Attorney's Office
2 and this defendant?

3 MR. WEINTRAUB: Yes, your Honor.

4 THE COURT: All right. Turning back to you,
5 Mr. Jensen. Have you reviewed the agreement with your
6 client?

7 MR. JENSEN: I have, your Honor.

8 THE COURT: All right. And Mr. Jensen, does
9 this agreement before the Court contain the entire
10 agreement between your client and the government?

11 MR. JENSEN: Yes, your Honor.

12 THE COURT: Turning back to you, Mr. Porter.
13 Is there anything in this agreement that is not clear or
14 that you need explained in any further detail at this
15 time?

16 THE DEFENDANT: No.

17 THE COURT: All right. Other than the promises
18 contained in the agreement, has anyone made any other
19 promises that have caused you to plead guilty?

20 THE DEFENDANT: No, Judge.

21 THE COURT: What I want to do now is carefully
22 go over with you the penalties for the crime to which you
23 may be pleading guilty, and I'll be referring to the
24 agreement.

25 The statute you are accused of violating

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1 carries a maximum sentence of 20 years. There's no
2 mandatory minimum sentence.

3 In addition, if you are sentenced to a term of
4 incarceration, supervised release would likely follow.
5 The maximum term of supervised release is three years and
6 that would follow any term of imprisonment. If a
7 condition of release were to be violated, you could be
8 sentenced to up to two years without credit for pre-
9 release imprisonment or time previously served on post
10 release supervision.

11 Supervised release is essentially like being on
12 probation or parole. You have a probation officer and
13 there are a lot of rules you have to follow. You have to
14 report to the probation department. And if you were to
15 violate any of the rules of the supervised release, you
16 could go back to jail for up to two years. Do you
17 understand all that?

18 THE DEFENDANT: Yes.

19 THE COURT: In addition, there could be a fine
20 imposed. The amount of that fine could be the greater of
21 \$250,000 or twice the gross gain or loss, whichever is
22 greater.

23 Let me turn to the government. Mr. Weintraub,
24 based upon my understanding of the allegation in this
25 case, the fine amount could be significantly higher than

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1 \$250,000 under the statute. Is that correct?

2 MR. WEINTRAUB: That's correct, your Honor.

3 THE COURT: All right. Do you have an estimate
4 as to the gross gain or gross loss in this case?

5 MR. WEINTRAUB: The government's investigation
6 is continuing to develop but a preliminary estimate is a
7 gross loss or gain of \$196,000 dollars.

8 THE COURT: Okay.

9 MR. WEINTRAUB: That's just preliminary at the
10 moment.

11 THE COURT: All right. I understand that this
12 is preliminary. Mr. Porter, twice that amount is about
13 \$392,000. Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: All right. So Mr. Porter, you
16 could be subject to what we call the alternative fines
17 provision which means that twice the gross gain or loss
18 could be the maximum fine imposed in your case. Do you
19 understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. Now, twice the amount
22 of the fraud could be the maximum fine under the statute.
23 You understand?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Now in addition,

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1 restitution is mandatory and that would be determined by
2 the Court at or after sentencing.

3 Mr. Weintraub, I'm going to turn back to you.
4 Do you have a sense of the restitution amount at this
5 time?

6 MR. WEINTRAUB: Your Honor, as set forth in the
7 agreement, there are a certain amount of restitution we
8 have a sense in the amount of roughly 260,000 plus the
9 196,000. That's the estimate at the moment.

10 THE COURT: All right. Mr. Porter, it's my
11 understanding that in the agreement you stipulated to a
12 certain amount of restitution. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. And the Court may also
15 impose additional restitution above and beyond that. Do
16 you understand?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Okay. Finally, the Court must
19 impose a \$100 special assessment in every case. That's a
20 per count assessment. And since you'll be pleading
21 guilty to one count, that would be the amount of the
22 special assessment. All right?

23 And you were born in this country, correct?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: All right. So in the event you

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1 were not a U.S. citizen, a conviction could result in
2 deportation.

3 All right. Mr. Porter, do you understand all
4 of the potential penalties statutorily and otherwise that
5 could flow from pleading guilty here today?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. In light of all these
8 potential penalties, do you still wish to plead guilty
9 today?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: At this time, Mr. Porter, I want to
12 discuss with you the sentencing scheme and how it works
13 here in federal court.

14 Judge DeArcy Hall has substantial discretion at
15 the time of sentencing, but she does not have complete
16 discretion. There are several factors that every
17 district judge must consider including the statutory
18 mandatory and minimum sentences set forth in the statute.
19 Here you have a maximum sentence but no minimum sentence.
20 The applicable sentencing guidelines and many other
21 factors set forth by law at Title 18 U.S. Code Section
22 3553(a).

23 Some of these factors include, but are not
24 limited to, the facts of your case, your personal history
25 and circumstances, the need for the sentence imposed to

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1 reflect the seriousness of the offense, to promote
2 deterrence and respect for the law, and to provide just
3 punishment for the offense. The sentencing court may
4 also consider the kinds of sentences available and what
5 type of sentence is appropriate to give you, the
6 defendant, with any needed educational or vocational
7 training, medical care, or any correctional treatment in
8 the most cost effective manner.

9 There are many, many things that the sentencing
10 court may consider in deciding what sentence to impose in
11 your case. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT:

14

15 The bottom line is that until the date of sentencing, you
16 cannot know with certainty what the guidelines will be or
17 whether there will be grounds to depart from them, or
18 whether the Court will impose a non-guideline sentence.
19 Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: As a first step, the Court must
22 consider the advisory sentencing guidelines issued by the
23 United States Sentencing Commission in determining what
24 is a reasonable sentence in a criminal case. While the
25 sentencing guidelines are only advisory now, they remain

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1 an important consideration in sentencing and Judge DeArcy
2 Hall will take them into account in determining what
3 sentence to give you. Do you understand?

4 THE DEFENDANT: Yes.

5 THE COURT: Have you discussed the sentencing
6 guidelines with your lawyer and how those guidelines are
7 calculated?

8 THE DEFENDANT: Yes, Judge.

9 THE COURT: As a second step, the Court must
10 consider whether there are any factors present that will
11 allow the Court to depart from the advisory guidelines
12 either upwardly or downwardly. In addition, the Court
13 must consider the factors set forth in 18 USC Section
14 3553(a) against all the facts and circumstances of this
15 case. And it may be that what is called a non-guideline
16 sentence may be appropriate.

17 The bottom line is that until the date of
18 sentencing you cannot know with certainty what the
19 guidelines will be or whether there will be grounds to
20 depart from them or whether the Court will impose a non-
21 guideline sentence. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Prior to your sentencing hearing,
24 Judge DeArcy Hall will receive a pre-sentence report from
25 the probation department which will recommend a guideline

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1 range. Your counsel will have the opportunity to read
2 the pre-sentence report and challenge the facts in it or
3 guidelines calculation as reported by the probation
4 department. Do you understand?

5 THE DEFENDANT: Yes, Judge.

6 THE COURT: Nevertheless, it's important for
7 you to know what the possible sentencing guidelines are
8 based upon the facts available at this point in time.
9 Keep in mind that this is a guess that could be wrong and
10 it is not binding on the parties or the Court. Do you
11 understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Let me turn back to the government.
14 Mr. Weintraub, are you prepared to provide an estimate of
15 the guidelines that may apply in this case?

16 MR. WEINTRAUB: Yes, your Honor. Taking into
17 account an expected reduction for acceptance of
18 responsibility and assuming that the defendant is in
19 criminal history category I, the government estimates
20 that the total adjusted offense level would be 22 which
21 carries an advisory guidelines range of 41 to 51 months
22 imprisonment.

23 THE COURT: Mr. Jensen, do you agree with that
24 estimate?

25 MR. JENSEN: Yes, your Honor.

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1 THE COURT: All right. Turning back to Mr.
2 Porter. Do you understand that this estimate of 41 to 51
3 months is only an estimate, it is not binding on the
4 government, probation, or Judge DeArcy Hall? Do you
5 understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you also understand that if this
8 estimate is wrong, you will not be permitted to withdraw
9 your plea of guilty. Do you understand that?

10 THE DEFENDANT: Yes, Judge.

11 THE COURT: Mr. Porter, it's important for you
12 to know that Judge DeArcy Hall is not bound by anything
13 in this agreement or what the government or your attorney
14 estimate the sentencing guidelines to be. Judge DeArcy
15 Hall can sentence you according to her interpretation of
16 the sentencing guidelines and the law. Do you
17 understand?

18 THE DEFENDANT: Yes.

19 THE COURT: Although Judge DeArcy Hall will
20 consider the sentencing guidelines as one factor in
21 determining what your sentence will be, she has the
22 authority under the law to decide upon and impose a
23 sentence that is more severe or less severe than the
24 sentencing guidelines. Even if the sentence is more
25 severe than the guidelines, that in and of itself will

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1 not form the basis of a successful appeal from the
2 sentence. Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Finally, under the guidelines
5 sentencing system, there's no parole board or parole
6 commission. What that means practically speaking is that
7 whatever sentence you do receive from Judge DeArcy Hall,
8 that'll be pretty close to the actual amount of time
9 you'll spend in prison. You will not have the
10 opportunity to appeal to the parole board to get out
11 early because there's no parole board in the federal
12 sentencing system. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: I want to note that in the
15 agreement as well you have agreed not to file an appeal
16 or otherwise challenge your conviction or sentence in the
17 event that the Court imposes a term of 57 months or
18 below. What that means is that if Judge DeArcy Hall
19 ultimately sentences you to a term of incarceration of 57
20 months or below, you are waiving and would have no
21 opportunity to challenge your conviction or sentence by
22 filing an appeal or any type of petition or application.
23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Now, the waiver I've

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1 just discussed, is that voluntary?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Also, nothing in the waiver of
4 appellate or collateral review rights shall prevent you
5 from raising a claim of ineffective assistance of counsel
6 in an appropriate forum if you so desire.

7 Now at this time, Mr. Porter, do you have any
8 questions that you want to ask me about the charge, your
9 rights, or anything else relating to this matter that may
10 not be clear to you?

11 THE DEFENDANT: No, Judge.

12 THE COURT: All right. Mr. Weintraub, do you
13 think there's anything else I need to advise the
14 defendant about at this time?

15 MR. WEINTRAUB: No, your Honor.

16 THE COURT: All right. Mr. Jensen, turning to
17 you. Do you know of any reason why your client should
18 not enter a plea of guilty to the charge?

19 MR. JENSEN: No, your Honor.

20 THE COURT: All right. And are you aware of
21 any legal defense to the charge at this time?

22 MR. JENSEN: No, your Honor.

23 THE COURT: Turning back to Mr. Porter. Are
24 you satisfied with your legal representation up until
25 this point?

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1 THE DEFENDANT: Yes.

2 THE COURT: Are you ready to plead?

3 THE DEFENDANT: Yes, Judge.

4 THE COURT: Okay. How do you plead to the sole
5 count of the information; guilty or not guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: Are you making this plea of guilty
8 voluntarily and of your own free will?

9 THE DEFENDANT: Yes, Judge.

10 THE COURT: Has anyone threatened or forced you
11 or pressured you to plead guilty?

12 THE DEFENDANT: No.

13 THE COURT: Other than the agreement before the
14 Court, has anyone made any promises to you that have
15 caused you to plead guilty?

16 THE DEFENDANT: No.

17 THE COURT: Has anyone promised you what
18 sentence you will receive from Judge DeArcy Hall if you
19 pled guilty?

20 THE DEFENDANT: No.

21 THE COURT: As I noted, it is a one-count
22 information. Let me turn over to you. At this time
23 could you tell me in your own words what you did that
24 would make you guilty of the charge of wire fraud
25 conspiracy?

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1 THE DEFENDANT: Yes, your Honor. Between
2 January 2024 and March 2024, within the Eastern District
3 of New York and elsewhere, I knowingly agreed to
4 participate in a scheme to defraud sports betting
5 companies one and two, entities which are known to the
6 United States Attorney by profiting from bets made by
7 false pretenses.

8 In order to get out from under large gambling
9 debts accumulated over time, I agreed with my co-
10 conspirators to withdraw myself from certain professional
11 basketball games on the basis of reported illness or
12 injury so that my co-conspirators and I could bet on and
13 profit from successful bets on my expected performance
14 including bets made on my unders. These bets were made
15 electronically across interstate wire.

16 I know what I did was wrong and unlawful, and I
17 am deeply sorry for my conduct.

18 THE COURT: All right. Let me turn to the
19 government. Does the government think I need any further
20 allocution with respect to the charge?

21 MR. WEINTRAUB: No, your Honor.

22 THE COURT: All right. And does the government
23 confirm that the elements have been satisfied?

24 MR. WEINTRAUB: Yes, your Honor.

25 THE COURT: Mr. Jensen, let me ask you do you

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1 agree that the allocution is factually sufficient?

2 MR. JENSEN: Yes, your Honor.

3 THE COURT: Turning back to Mr. Weintraub.

4 Anything else needed for purposes of Rule 11?

5 MR. WEINTRAUB: No, your Honor.

6 THE COURT: All right. Mr. Jensen, do you
7 agree?

8 MR. JENSEN: Yes, your Honor.

9 THE COURT: All right. I do agree as well that
10 the allocution is factually sufficient. The defendant
11 described the scheme and that he knowingly entered into
12 it and that the wires were transmitted to and from the
13 Eastern District of New York during the relevant time
14 frame, and that the defendant was a knowing participant
15 in this agreement.

16 Now, based on the information given to me, I
17 find that the defendant, Mr. Porter, is acting
18 voluntarily, that he fully understands the charge against
19 him, his rights, and the consequences of his plea, and
20 that there are factual bases for the plea as well, that
21 the plea did not result from any force, threats, or
22 undisclosed promises. And it will be my recommendation
23 to Judge DeArcy Hall that she accept Mr. Porter's guilty
24 plea to the charge in the information.

25 I have been informed by Judge DeArcy Hall's

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1 chambers that a sentencing hearing has been scheduled for
2 December 18, 2024 at 11 a.m.

3 Mr. Weintraub, at this time is there anything
4 else we should address as part of the guilty plea
5 proceedings?

6 MR. WEINTRAUB: No, your Honor.

7 THE COURT: All right. Mr. Jensen, anything
8 else we need to discuss for purposes of the guilty plea?

9 MR. JENSEN: No, your Honor.

10 THE COURT: All right. At this time because it
11 is the defendant's first appearance, I would like to go
12 off the record briefly and then re-call the case for
13 purposes of doing a determination regarding bond. Okay?

14 MR. WEINTRAUB: Yes, your Honor.

15 THE COURT: All right. We are off the record.

16 (Matter concluded)

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C E R T I F I C A T E

I, MARY GRECO, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 12th day of July, 2024.

Mary Greco
Transcriptions Plus II, Inc.